



**Hundredth Legislature - First Session - 2007  
Committee Statement  
LB 523**

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**Hearing Date:** February 14, 2007  
**Committee On:** Health and Human Services

**Introducer(s):** (Aguilar)  
**Title:** Adopt the Quality Home Care Act

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**Roll Call Vote – Final Committee Action:**

- Advanced to General File
  - Advanced to General File with Amendments
  - X Indefinitely Postponed
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**Vote Results:**

5	Yes	Senator(s): Johnson, Erdman, Hansen, Gay, Pankonin
1	No	Senator Howard
1	Present, not voting	Senator Stuthman
	Absent	

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**Proponents:**

Senator Aguilar  
Jim Keef  
Korrine K. Tanner  
Ranita McCoy  
Mary Angus  
Kathy Hoell

**Representing:**

Introducer  
Self  
Self  
Self  
ADAPT Nebraska  
Statewide Independent Living Council

**Opponents:**

Richard Skerbitz  
Brendon Polt

**Representing:**

League of Human Dignity, Inc.  
Nebraska Health Care Association

**Neutral:**

Chris Peterson

**Representing:**

Health and Human Services System

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**Summary of purpose and/or changes:**

LB 523 adopts the Quality Home Care Act (sec. 1).

Findings and Definitions (sec. 2-3)

The bill contains findings and defines the terms. “Home care worker” is defined as “a person selected by a consumer or the consumer’s guardian or agent to provide home care for compensation, including, but not limited to, child care for children with disabilities, chore services, home care chore services, homemaker services, personal assistance services, or respite

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services, as defined in rules and regulations of the department adopted pursuant to the Medical Assistance Act or a waiver under the act or pursuant to the Adult Protective Services Act.”

#### Establish the Quality Home Care Council (sec. 4)

The bill creates the Quality Home Care Council (council) consisting of nine members appointed by the Governor and confirmed by the Legislature. The majority of the council (at least 5 members) must be Nebraska seniors or persons with disabilities who receive or have received home care services. Other members include a rural health advocate, and a representative of each of the following entities: (1) the Department of HHS Finance and Support (department), (2) a statewide independent living council, (3) area agency on aging, and (4) a statewide or national advocacy organization for the aging. Members are appointed for staggered three-year terms. Members receive a \$20 per diem and necessary expenses.

The council would annually elect one of its members to serve as chairperson. The chairperson or majority of members of the council may call regular or special meetings of the council. The council would employ an executive director and necessary staff to carry out its duties. Staff would reside within the department and remain under the direction of the council.

#### Powers and Duties of the Quality Home Care Council (sec. 5)

The council would (1) establish qualifications and reasonable accountability standards for home care workers and do background investigations of home care workers and prospective home care workers; (2) identify and recruit qualified home care workers and prospective home care workers; (3) provide training for home care workers and prospective home care workers, consumers, and prospective consumers; (4) establish a statewide referral registry of home care workers to assist consumers and prospective consumers, in conjunction with other agencies, in finding home care workers and prospective home care workers. Prerequisites are provided before the council may place a home care worker or prospective home care worker on the statewide referral registry, including, but not limited to, minimum training and criminal history background check requirements; (5) remove home care workers or prospective home care workers from the statewide referral registry. Such removal may be contested under the Administrative Procedure Act; (6) take action to retain qualified home care workers by providing routine, emergency, and respite referrals of home care workers to consumers to enable home care workers to obtain needed leave time; and (7) set wages and establish economic benefits for home care workers and, in consultation with the department, any other terms and conditions of employment not reserved to consumers by the act.

#### Placement of Home Care Workers on the Statewide Referral Registry (sec. 6)

The bill requires all home care workers employed by or under contract with the state or a political subdivision or otherwise compensated with public funds to be placed on the statewide referral registry before providing home care services.

Home care workers providing home care services under the act must be placed on the statewide referral registry but are exempt from the training and criminal history background check requirements under section 5 of the bill.

A consumer or a consumer’s surrogate on behalf of the consumer may elect to receive home care services from home care workers who are not referred to them by the council and are not on the statewide referral registry.

#### Consumer Rights With Respect to Home Care Workers (sec.7)

Consumers may select, hire, and supervise the work of and terminate any individual home care worker. Consumers may file complaints with the council regarding home care workers or the plan of care with the council.

Collective Bargaining (sec. 8)

Home care workers are deemed public employees of the council solely for purposes of collective bargaining governed by the Industrial Relations Act. Provisions of the Quality Home Care Act control where they conflict with the Industrial Relations Act. The bill creates a separate statewide bargaining unit for home care workers. The collective bargaining agent selected by home care workers will negotiate with the council. Home care workers do not have the right to strike.

The bill requires the State of Nebraska to cooperate with the council in implementing the council's duties under the act and specifically in seeking any appropriations necessary to comply with and implement the economic terms of a collective bargaining agreement under the act.

Budget and Funding for the Council (sec. 9)

The council must submit a one-year budget and a three-year budget to the department which includes a detailed statement of the cost and plan for the council's activities and services pursuant to the Quality Home Care Act. Funding for eligible activities and services of the council are from the General Fund, federal funds allocated to the department, and other funds as available. The executive director of the council must notify the council, the department, and the Legislature if the council's funding is insufficient.

Legislative Performance Audit (sec. 10)

The Legislative Performance Audit Section is required to conduct a performance audit of the council in 2011 and every three years thereafter and submit the results of each audit to the Legislature and the Governor.

Advise the Department (sec. 11)

The council is required to advise the department on department policies relating to support provided to the council. The council may advise the Policy Cabinet on matters pertaining to home health care if requested.

Rules and Regulations (sec. 12)

The council may adopt and promulgate rules and regulations to carry out the Quality Home Care Act.

**Explanation of amendments, if any:**

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**Senator Joel Johnson, Chairperson**